

ORIGINAL

Before the
Federal Communications Commission
 Washington, D.C. 20554

RECEIVED

FEB 25 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**In the Matter of**

Amendment of Section 73.202(b)
 (Table of Allotments)
 FM Broadcast Stations
 Sugar Hill, Toccoa
 and Lawrenceville, Georgia

)
)
) MM Docket No. 98-162
) RM-9263
)
)
)

To: Chief, Allocations Branch
 Policy and Rules Division
 Mass Media Bureau

SUPPLEMENT TO COMMENTS AND COUNTERPROPOSAL

Southern Broadcasting of Pensacola, Inc. ("Southern"), by its attorneys, hereby respectfully submits this Supplement to Southern's Comments and Counterproposal filed November 2, 1998, in response to the Commission's *Notice of Proposed Rule Making* ("*NPRM*"), DA 98-1785, released September 11, 1998,¹ proposing to reallocate Channel 29IC from Toccoa, Georgia, to Sugar Hill, Georgia, as Channel 29IC1. On November 2, 1998, Southern counterproposed that the Commission instead amend Section 73.202(b) of the Rules to (a) delete Channel 29IC from Toccoa, Georgia, (b) add Channel 29IC1 at **Lawrenceville**, Georgia, and (c) modify the license of WSTE-FM, Toccoa, Georgia, to specify **Lawrenceville**, Georgia as the station's community of license.

WSTE-FM, Channel 29IC, Toccoa, Georgia, is licensed to Southern. Based on Southern's request, the Commission's *NPRM* proposed to reallocate Channel 29IC from

No. of Copies rec'd 0+4
 List ABCDE

¹ Southern's counterproposal was mutually exclusive with the proposal to allocate Channel 29IC1 to Sugar Hill, Georgia. Lawrenceville has been added to the caption.

Toccoa to Sugar Hill, Georgia, as Channel 291C1. On November 2, 1998, Southern requested, instead, that the Commission allot Channel 291C1 to Lawrenceville. Southern proposes to operate WSTE-FM from the transmitter site as authorized in its construction permit (BPH-970325IC).

In its November 2, 1998, Counterproposal, Southern showed that Lawrenceville would be entirely covered by a 70 dBu or better signal from WSTE-FM, utilizing the "point-to-point" method of predicting city grade coverage. The Commission proposes to authorize use of the supplemental point-to-point prediction model in MM Docket No. 98-93, *Notice of Proposed Rule Making and Order (Streamlining of Radio Technical Rules)*, FCC 98-117, released June 15, 1998 (Pars. 31-35). Southern requested a waiver of such procedures or rules (*e.g.*, Section 73.313(e)) as may be necessary or appropriate to consider Southern's technical showing. The date for filing Reply Comments was December 4, 1998. A recent review of the Commission's Electronic Comment Filing System ("ECFS") shows that 77 Comments or Replies have been filed in MM Docket No. 98-93. Thus, the likelihood that the Commission will quickly authorize the point-to-point prediction model is in doubt. Therefore, if the Commission determines that it will not promptly grant a waiver of the Rules to permit the use of Channel 291C1 at Lawrenceville, Southern states that it remains ready, willing, and able to relocate WSTE-FM to Sugar Hill, Georgia, as originally proposed.

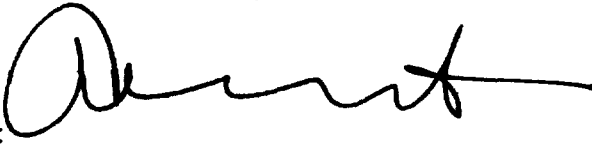
A review of the ECFS for this docket reveals no comments opposing the relocation of WSTE-FM to Sugar Hill, Georgia. Further, the Commission has not yet placed the counterproposal on a public notice. Therefore, there would be no prejudice to any of the other parties to this proceeding to accept this Supplement to Comments and

Counterproposal even though the date for filing reply comments has passed.² The public interest would be served by accepting this Supplement since it would give the Commission the alternative of either allotting Channel 291C1 to Lawrenceville or to Sugar Hill, and either community would benefit by a first local transmission service.

In conclusion, Southern requests the Commission to (a) allot Channel 291C1 either to Lawrenceville or Sugar Hill, Georgia, and (b) modify the license of WSTE-FM to operate on FM Channel 291C1 to either Lawrenceville or to Sugar Hill. If the FCC modifies the license of WSTE-FM to operate on Channel 291C1 at either Lawrenceville or Sugar Hill, Southern will timely file an application for minor change construction permit to operate WSTE-FM at Lawrenceville or Sugar Hill, as specified in the Commission's *Report and Order*, and upon grant thereof, Southern will construct the new facilities and operate them.

Respectfully submitted,

**SOUTHERN BROADCASTING OF
PENSACOLA, INC.**

By: 

Gary S. Smithwick
Its Attorney

SMITHWICK & BELENDIUK, P.C.
1990 M Street, N.W.
Suite 510
Washington, D.C. 20036
(202) 785-2800

February 25, 1999

² Southern is simultaneously filing a Motion for Leave to Supplement Record that addresses this matter.

CERTIFICATE OF SERVICE

I, Patricia A. Neil, a secretary in the law offices of Smithwick & Belendiuk, P.C., certify that on this 25th day of February, 1999, copies of the foregoing mailed, postage prepaid, to the following:


John A. Karousos, Esquire*
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2000 M Street, N.W.
Room 554
Washington, D.C. 20554

Ms. Leslie K. Shapiro*
Allocations Branch
Mass Media Bureau
Federal Communications Commission
2000 M Street, N.W.
Room 564
Washington, D.C. 20554

Paul Hastings Janofsky & Walker, L.L.P.
1299 Pennsylvania Avenue, N.W.
10th Floor
Washington, D.C. 20004-2400

Davis Wright Tremaine
1155 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20036-4313

Howard M. Weiss, Esquire
Fletcher Heald & Hildreth, P.L.C.
1300 North 17th Street
11th Floor
Rosslyn, Virginia 22209-3801


Patricia A. Neil

(*) Hand delivery